

**MARKUP OF H.R. 4844
FEDERAL ELECTION INTEGRITY ACT
OF 2006**

MARKUP
BEFORE THE
**COMMITTEE ON HOUSE
ADMINISTRATION**
HOUSE OF REPRESENTATIVES
ONE HUNDRED NINTH CONGRESS
SECOND SESSION

MARKUP HELD IN WASHINGTON, DC, SEPTEMBER 14, 2006

Printed for the use of the Committee on House Administration



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MARKUP OF H.R. 4844, FEDERAL ELECTION INTEGRITY ACT OF 2006

THURSDAY, SEPTEMBER 14, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The committee met, pursuant to call, at 11:11 a.m., in Room 1310, Longworth House Office Building, Hon. Vernon Ehlers, [chairman of the committee] presiding.

Present: Representatives Ehlers, Mica, Doolittle, Miller, Millender-McDonald, Brady and Lofgren.

Staff Present: Peter Sloan, Professional Staff Member; Paul Vinovich, Staff Director; Gineen Beech, Counsel; George Shevlin, Minority Staff Director; Charles Howell, Minority Chief Counsel; Tom Hicks, Minority Professional Staff; Matt Pinkus, Minority Professional Staff; and Janelle Hu, Minority Professional Staff.

The CHAIRMAN. Good morning, ladies and gentlemen. The Committee on House Administration will come to order. I apologize again for the delay. We will proceed with our opening statements, both my part and that of the ranking member. We presume that we will have a sufficient number here at the end of that time. If not, we will call a brief recess until we have them. I am sorry that the disruption took place today, but we will proceed as best we can.

First, I would like to advise members of our audience here today that all cellular phones, pagers and other electronic equipment must be silenced to prevent interruption of our business. Thank you very much. I will not have any problem complying with that myself, since I lost my cell phone on the way to this meeting.

Today the committee meets to mark up H.R. 4844, the Federal Election Integrity Act of 2006. Over the past few months, this committee has received testimony from election experts, local officials and concerned citizens about the issues raised by this bill. We had hearings here in Washington, in Las Cruces, New Mexico, and in Phoenix, Arizona on ID requirements and voting by noncitizens. All views were represented at these hearings, and they gave us valuable insights into the arguments for and against the proposals to require voters to show an ID at the polls.

They also revealed some strong disagreements about the wisdom of imposing such a requirement. To some, this proposal is a simple, commonsense proposal and a necessary safeguard against voter fraud. To others it represents a dangerous threat to some citizens' abilities to access the polls.

While that debate may be heated and ongoing in Washington, D.C., it seems the American people have made up their mind. A re-

cent NBC Wall Street Journal poll showed that 81 percent of those surveyed favored an ID requirement for voting. Likewise, the bipartisan Carter Baker Commission on Federal Election Reform recommended a national voter ID requirement in the report they issued last year. While the division on this issue may be partisan here in Congress, elsewhere it seems a large bipartisan majority has concluded that requiring ID is a necessary reform.

The committee has had H.R. 4844, the Federal Election Integrity Act, pending before it since Mr. Hyde introduced the bill in March of this year. Today I will offer a substitute amendment that makes some changes to the bill but preserves its fundamental features, a requirement to prove citizenship and present identification to vote in federal elections in the United States.

I want to thank Mr. Hyde for his leadership and his work on this important issue and thank him also for working with us on making the changes contained in the substitute. Basically we have sought to extend deadlines in our substitute to make it more functional and easy to implement. The substitute amendment has been provided to all committee members. I will now describe its provisions.

The amendment will require presentation of a government-issued photo ID to vote in federal elections, effective November 2008. This extends the effective date of H.R. 4844, as introduced, by two years. Though most of the voting public already has an ID that can meet this requirement, there is a percentage of eligible voters who do not have an ID, so these extra two years will give them time to acquire it. To ensure that eligible citizens are voting, the amendment will require presentation by 2010 of an ID that could not have been obtained without providing proof of citizenship. This replaces the requirement of proving citizenship at registration with a requirement to prove citizenship when obtaining the ID. Once obtained, this ID can be used to prove both citizenship and identity when voting.

The Congress has previously enacted the REAL ID Act, which will require people to prove their legal status in this country to get a real ID. That act has to be implemented by May 2008. Citizens will be able to use the IDs they obtain under this process to vote in elections starting in 2010 and for all elections thereafter. The ID will have to include some indication of citizenship so poll workers and other election officials will be able to tell that the bearer is a citizen.

Pursuant to the amendment, those who arrive at the polls without an ID will be permitted to cast a provisional ballot. These ballots will be counted if the person returns and presents to an election official a qualifying ID within 48 hours. To help those who need, but cannot afford, the ID to vote, the amendment requires states to provide them free of cost to the indigent, and authorizes federal funds to reimburse states for the costs of doing so.

I think these changes improve the bill and will make it easier to implement and easier for citizens to vote. Once implemented, we will have an important safeguard in place that will enhance the integrity of our system and help restore confidence in it. By putting in place procedures that ensure that voting is limited to eligible citizens, we can encourage participation and increase turnout.

The experience in Arizona is instructive here. Despite all the claims that disenfranchisement would ensue after enactment of the proof of citizenship and ID requirements, testimony in Phoenix revealed that after they adopted Proposition 200, that registration, which required citizenship and ID, went up 15 percent after the requirement to prove citizenship went into effect.

The fact is, people are encouraged to vote when they believe that their vote will count and their vote will not be cancelled out by an illegal vote.

I know there will be some who oppose the action we will take today, and there will be some controversy generated by the proposal. I wish it were not so. It seems we should be able to agree that voting should be limited to citizens of the United States, because that has been the law for years. If we can agree on that, we should be able to agree that our voting systems must have procedures in place to ensure it. We should all be able to agree that every eligible citizen should be able to vote, to vote only once, and to be assured that their vote will not be diluted by an illegal vote. If we agree on that, we should be able to agree that making people identify themselves when they vote is a simple and necessary safeguard.

Some members have told me that the ID requirement is too much trouble. But every day, millions of Americans show a picture ID to pay by check, to board an airplane, to buy alcohol or tobacco. Surely the sanctity of the ballot warrants as much protection as these other activities. Our voting rights are too important to rely on an honor system. We need to make sure we have procedures in place that protect the right to vote and make sure only eligible citizens are able to do so.

I hope all Members will recognize the need for these necessary reforms. They will advance the security of our electoral systems, increase confidence in their integrity and reduce the opportunities for fraud.

At this time I am pleased to recognize the Ranking Member, Ms. Millender-McDonald for her opening statement.

[The information follows:]

Opening Statement

Good morning ladies and gentleman. The Committee on House Administration will come to order.

Today the Committee meets to mark up H.R. 4844, the Federal Election Integrity Act of 2006.

Over the past few months, this Committee has received testimony from election experts, local officials and concerned citizens about the issues raised by this bill. We had hearings here in Washington, in Las Cruces, New Mexico and in Phoenix, Arizona on ID requirements and voting by non-citizens.

All views were represented at these hearings and they gave us valuable insights into the arguments for and against the proposals to require voters to show an ID at the polls. They also

revealed some strong disagreements about the wisdom of imposing such a requirement. To some, this proposal is a simple, common sense proposal and a necessary safeguard against vote fraud. To others, it represents a dangerous threat to some citizens' ability to access the polls.

While this debate may be heated and ongoing in Washington, DC, it seems the American people have made up their mind. A recent NBC/Wall Street Journal poll showed that 81% of those surveyed favored an ID requirement for voting. Likewise, the bi-partisan Carter Baker Commission on Federal Election Reform recommended a national voter ID requirement in the report they issued last year. While the division on this issue may be partisan here in Congress, elsewhere it seems a large bi-partisan majority has concluded that requiring ID is a necessary reform.

The Committee has had H.R. 4844, the Federal Election Integrity Act, pending before it since Mr. Hyde introduced the bill in March of this year. Today I will offer a substitute amendment that makes some changes to the bill but preserves its fundamental feature – a requirement to prove citizenship and present identification to vote in federal elections in the United States. I want to thank Mr. Hyde for his leadership and his work on this important issue, and thank him also for working with us on making the changes contained in the substitute.

The substitute amendment has been provided to the Committee Members. I will now describe its provisions.

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that could meet this requirement, there is a percentage of eligible voters who do not have an ID so these extra two years will give them time to acquire it.

To ensure that only citizens are voting, the amendment will require presentation by 2010 of an ID that could not have been obtained without proving proof of citizenship. This replaces the requirement of proving citizenship at registration, with a requirement to prove citizenship when obtaining the ID. Once obtained, this ID can be used to prove both citizenship and identity when voting.

The Congress has previously enacted the REAL ID Act which will require people to prove their legal status in the country to get a REAL ID. That Act has to be implemented by May 2008. Citizens will be able to use the ID's they obtain under this process to vote in elections starting in 2010 and for all elections thereafter.

The ID will have to include some indicia of citizenship, so poll workers and other election officials will be able to tell that the bearer is a citizen.

Pursuant to the amendment, those who arrive at the polls without an ID will be permitted to cast a provisional ballot. These ballots will be counted if the person returns and presents to an election official a qualifying ID within 48 hours.

To help those who need, but cannot afford, the ID to vote, the amendment requires States to provide them free of cost to the indigent, and authorizes funds to reimburse States for the costs of doing so.

I think these changes improve the bill and will make it easier to implement and easier for citizens to vote. Once implemented, we will have an important safeguard in place that

will enhance the integrity of our system and help restore confidence in it. By putting in place procedures that ensure voting is limited to eligible citizens, we can encourage participation and increase turnout. The experience in Arizona is instructive here – despite all the claims that disenfranchisement would ensue after enactment of the proof of citizenship and ID requirements in Proposition 200, testimony in Phoenix revealed that registration went up 15% after the requirement to prove citizenship went into effect. The fact is, people are encouraged to vote when they believe that their vote will count, and their vote will not be cancelled out by an illegal vote.

I know there will be some who oppose the action we will take today and there will be some controversy generated by the proposal. I wish it were not so. It seems we should all be able to agree that voting should be limited to citizens of the United States, because that has been the law for years. If we can agree

on that, we should be able to agree that our voting systems must have procedures in place to ensure it.

We should all be able to agree that every eligible citizen should be able to vote, to vote only once and to be assured that their vote will not be diluted by an illegal vote. If we agree on that, we should be able to agree that making people identify themselves when they vote is a simple and necessary safeguard.

Some members have told me that the ID requirement is too much trouble. But everyday millions of Americans show a picture ID to pay by check, board a plane, or buy alcohol or tobacco. Surely the sanctity of the ballot warrants as much protection as these other activities.

Our voting rights are too important to rely on an “honor system.” We need to make sure we have procedures in place

that protect the right to vote, and make sure only eligible citizens are able to do so.

I hope all members will recognize the need for these necessary reforms. They will advance the security of our electoral systems, increase confidence in their integrity and reduce the opportunities for fraud.

At this time, I would like to recognize the Ranking Member, Ms. Millender-McDonald, for any remarks she may have.

[After Millender-McDonald statement, you may recognize any other Members who wish to make remarks.]

Ms. MILLENDER-McDONALD. Thank you so much, Mr. Chairman, and good morning to you and to all of our guests here this morning. This committee has previously conducted a number of hearings to gather input on the question of imposing a Federal proof of citizenship requirement in order to vote. Those hearings documented, among other things, that the imposition of such a proof of citizenship requirement would adversely impact millions of American citizens. Those impacted include the least among us, the elderly, disabled, the poor and ethnic minorities. And it would clearly have a disproportionate impact on women and many college students.

Such a requirement would impose new and costly burdens and, in many cases, insurmountable obstacles on American citizens trying to exercise their constitutional right to vote.

Now, I am not speaking about illegal immigrants here, because there are laws prohibiting such persons from voting. I am speaking about the burden on American citizens. Many Americans could be affected by this provision. Former Election Assistance Commissioner Ray Martinez testified before this committee that his 86-year-old World War II veteran father was born on a rural ranch in Texas, far away from hospitals, far away from birth certificates and far away from documentary proof of citizenship. He could be denied the right to vote if this becomes law, even though he has legally voted in every election that the commissioner could remember.

Moreover, in order to comply with his State's new photo ID, Representative Ike Skelton was not permitted to use his government-issued congressional ID to obtain a State-issued non-driver ID to vote. Instead, Congressman Skelton was told he needs a passport or a birth certificate in order to acquire a non-driver ID. I am concerned that the very same card that may be used to vote in the legislature on this floor in Congress does not satisfy identification requirements in Mr. Skelton's State.

During the hearings, it became apparent that the need for a proof-of-citizenship requirement is not documented by studies or by empirical data, but rather by anecdotal information. Even those who came before us during the hearing of Mr. Hyde's bill admitted that they had no quantitative data to support their argument.

The Nation's electoral process is not perfect. There are millions of American citizens who are affected by the misallocation of voting machines, the inconsistent treatment of provisional ballots, the many types of registration obstacles, the illegal purging of voting rolls and so on. These are real, documented problems which should be commanding our attention.

Yet, without validation that voting by noncitizens is a significant problem, we are investing our legislative resources on legislation, which, in my view, constitutes the classic solution in search of a problem. Such legislation as the Voting Rights Act, the Motor Voter Act, the Uniformed and Overseas Citizens Absentee Voting Act, HAVA, Help America Vote Act, and other Federal laws are intended to expand and enhance citizens' constitutional rights to vote. But we are starting down a new path, one which erects obstacles to citizen participation, all in the name of addressing a conceived problem, which is the result of an abject failure by this Congress and another attempt to distort the real issues.

Let me be perfectly clear. Anyone who breaks the law by attempting to register to vote illegally should be prosecuted to the full extent of the law. And we have adequate laws in place today to address this concern.

However, partisan attempts to burden our Nation with troublesome proof of citizenship requirements are not the direction our committee, this country, or anyone should be heading. This committee should focus on ensuring that all Americans who are eligible to vote are able to do so without having to wait for many long hours to cast a vote, an unforgivable scene we witnessed in Ohio just 2 years ago.

Further, this committee should be concentrating on ways to ensure all Americans that their ballots will be fully accounted for and their votes will be accurately counted. The Congress and this committee should be addressing these real voter issues, electoral fraud perpetrated on Americans, voter intimidation, threats, misinformation and other forms of voting suppression that are still disenfranchising American citizens today.

As we heard from witnesses at our June hearing and read in the letters submitted by concerned civil rights and other organizations, there will be many unfortunate and unavoidable consequences if the proposed identification barrier is enacted. The American Association of Retired People, AARP, stated that, and I quote, "that new State laws and implementing rules will significantly limit opportunities to register or to vote. Many persons who are qualified to vote but do not have ready access to documents such as birth certificates, driver's license and passports, that never have been deemed necessary in the past, may lose their fundamental right to vote." End of quote.

Mr. Chairman, I ask unanimous consent that the AARP letter to the Committee on House Administration, dated June 27, 2006, be made part of the record of this markup.

The CHAIRMAN. Without objection, so ordered.

[The information follows:]



June 27, 2006

The Honorable Juanita Millender-McDonald
Ranking Member
House Administration Committee
1309 Longworth House Office Building
U.S. House of Representatives
Washington DC 20515

Dear Representative Millender-McDonald:

AARP submits this letter for the record of your Committee hearing on June 22, 2006, regarding voter ID requirements for elections. AARP has a longstanding commitment to full citizen participation in the democratic process at the federal, state and local level, and for that reason AARP has supported electoral reform at the federal level -- i.e., enactment of the National Voter Registration Act (NVRA), the Help America Vote Act (HAVA), the Bipartisan Campaign Reform Act (BCRA), and reauthorization of the Voting Rights Act (VRA). AARP also conducts extensive voter education efforts in each of the 53 U.S. states and territories in which it has offices.

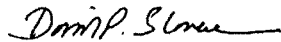
In addition, AARP attorneys represent U.S. citizens aged 50+ who are in danger of disenfranchisement at the federal or state level, and AARP has participated in various advisory capacities to support citizen empowerment through meaningful opportunity to exercise the franchise.

AARP attorneys are currently serving as one of the counsel for plaintiffs in lawsuits challenging burdensome and unreasonable state laws in Georgia (GA) and Arizona (AZ). These laws will, in effect, limit rather than expand citizen participation in the electoral process through unnecessarily restrictive requirements. In these jurisdictions, state legislatures or ballot initiatives have sought to enact laws that have elevated proof requirements for voters to register (AZ) and to vote in person (GA and AZ). These laws are based on assertions of a threat of fraud which lack concrete basis in fact and unfortunately serve to heighten tensions among voters divided by race, language and ethnicity. These new state laws and implementing rules will significantly limit opportunities to register and/or vote. Many persons who are qualified to vote but do not have ready access to documents -- such as birth certificates, driver's licenses and passports -- that never have been deemed necessary in the past may lose the fundamental right to vote.

AARP is particularly concerned that such rules will prevent many eligible older voters, voters with disabilities (who may be unable to obtain the requisite photo or citizenship ID) and low income voters (who may not be able to afford such ID) from exercising their right to vote. For example, an estimated 675,000 registered voters in GA have no driver's license, according to Georgia's Secretary of State. Such laws adversely affect older voters who (1) no longer drive and do not need licenses; (2) do not now travel or never did and therefore have no passport; or (3) are persons without birth certificates (e.g., Southern blacks or some Native Americans who

were not allowed in white hospitals that provided documentation). At a time when democratic elections are being conducted for the first time in many nations throughout the world, any unnecessary erosion in access to the ballot in the world's oldest electoral democracy should be unacceptable. On behalf of older Americans who have largely shaped the values of our democracy, we urge great care to ensure that the basic right to vote is not trampled in an effort to address unproven allegations of voting abuse.

Sincerely,

A handwritten signature in black ink, appearing to read "David P. Sloane", with a stylized flourish at the end.

David P. Sloane
Senior Managing Director
Government Relations and Advocacy

The CHAIRMAN. Ms. Millender-McDonald.

Ms. MILLENDER-McDONALD. Thank you. The question of citizenship was addressed and extends the the Help America Vote Act wherein Congress mandated that mail-in registration forms include a box that asked the question, Are you a citizen of the United States of America? If your answer is no, your form is automatically rejected. If your answer is yes, and you are discovered not to be a citizen, you are subject to Federal prosecution. Penalties are stiff, and have successfully served as a deterrent to misrepresentation. Noncitizens would be foolish to risk up to 5 years in prison and deportation to cast an illegal ballot.

Instead of wasting our citizens' time and hard-earned money in creating unnecessary obstacles to the ballot box, the Congress should be about strengthening and enforcing our existing laws before adding new and unnecessary laws to the books. Minorities and the elderly are particularly at risk of disenfranchisement because they are less likely than other citizens to have the other required documentation. For example, many of the elderly do not have birth certificates because they were born during a time when children were born at home and their births were not recorded by a governmental agency. In numerous studies, a larger percent of African American adults reported that they lack a passport or birth certificate, compared to the percentage of all adults surveyed.

Some have suggested that the populace could use a passport as proof of citizenship. However, according to the State Department, only 23 percent of Americans possess a passport, and the cost of obtaining one is nearly \$100. This amount may not sound like much to us folks here in Washington, but my constituents, who often struggle to pay for housing, medicine, and gas to drive to work, would find this additional and unnecessary expense excessive.

Requiring a government-issued photo ID to register and vote is not the answer either. As for U.S. citizens born overseas, obtaining the necessary citizenship documents costs hundreds of dollars, all to address an unsubstantiated fear that noncitizens are affecting the outcome of Federal elections.

Instead of erecting additional barriers which suppress citizen participation, we must strengthen voting rights and work to get the 40 percent of already registered voters who did not participate in the last election to become active participants. Our efforts should be spent on enfranchising voters and revitalizing our democracy, not erecting new barriers by requiring citizenship documentation. Our time, energy and resources should go to addressing the rampant intimidation tactics that continue to surface with each new election cycle.

Mr. Chairman, I believe that voter fraud is wrong. But we should not punish every American, especially the elderly, the disabled or the poor, from expensive or overly burdensome requirements that address a so-called noncitizen voting strawman, which do nothing to increase civic participation.

As I have done in the past, I will continue to fight to make our voting system as good as it can possibly be, free of flaws and defects. But in doing so, I will also fight against the imposition of unnecessary burdens and obstacles to registration and to voting, as

well as policy, which will result in the suppression of our citizens' right to vote.

We are missing the boat today with this misguided legislation instead of working to promote the rights of American citizens to vote. I look forward to working with you, Mr. Chairman, and other members to achieve this goal. Thank you Mr. Chairman.

The CHAIRMAN. Thank you for your statement.

I am willing to consider other statements if you wish, but in view of the time I would hope you would keep them brief if anyone wishes to offer any. I see none, so we will proceed with the discussion.

The Chair asks unanimous consent that H.R. 4844 be considered as read and open to amendment at any point. Without objection, so ordered.

[The information follows:]

109TH CONGRESS
2D SESSION

H. R. 4844

To amend the National Voter Registration Act of 1993 to require any individual who desires to register or re-register to vote in an election for Federal office to provide the appropriate State election official with proof that the individual is a citizen of the United States to prevent fraud in Federal elections, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2006 .

Mr. HYDE introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the National Voter Registration Act of 1993 to require any individual who desires to register or re-register to vote in an election for Federal office to provide the appropriate State election official with proof that the individual is a citizen of the United States to prevent fraud in Federal elections, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Federal Election Integ-
5 rity Act of 2006”.

1 **SEC. 2. REQUIRING PROOF OF CITIZENSHIP TO ACCOM-**
2 **PANY APPLICATION FOR VOTER REGISTRA-**
3 **TION.**

4 (a) APPLICATION PROVIDED WITH MOTOR VEHICLE
5 LICENSE APPLICATION.—Section 5(c)(2) of the National
6 Voter Registration Act of 1993 (42 U.S.C. 1973gg–
7 3(c)(2)) is amended—

8 (1) in subparagraph (B), by striking “may re-
9 quire” and inserting “in addition to the information
10 required under subparagraph (E), may require”;

11 (2) by striking “and” at the end of subpara-
12 graph (D);

13 (3) by redesignating subparagraph (E) as sub-
14 paragraph (F); and

15 (4) by inserting after subparagraph (D) the fol-
16 lowing new subparagraph:

17 “(E) shall require the applicant to provide a
18 photographic copy of any document which provides
19 proof that the applicant is a citizen of the United
20 States, in accordance with guidelines established by
21 the Election Administration Commission in consulta-
22 tion with the Secretary of Homeland Security and
23 the Secretary of State.”.

24 (b) MAIL-IN FORM.—Section 9(b) of such Act (42
25 U.S.C. 1973gg–7(b)) is amended—

1 (1) in paragraph (1), by striking “may require”
2 and inserting “consistent with paragraph (5), may
3 require”;

4 (2) by striking “and” at the end of paragraph
5 (3);

6 (3) by striking the period at the end of para-
7 graph (4) and inserting “; and”; and

8 (4) by adding at the end the following new
9 paragraph:

10 “(5) shall require the applicant to provide a
11 photographic copy of any document which provides
12 proof that the applicant is a citizen of the United
13 States, in accordance with guidelines established by
14 the Election Administration Commission in consulta-
15 tion with the Secretary of Homeland Security and
16 the Secretary of State.”.

17 (c) SPECIAL RULES FOR STATES WITHOUT REG-
18 ISTRATION REQUIREMENT AND STATES PERMITTING
19 SAME-DAY REGISTRATION.—

20 (1) IN GENERAL.—Section 8 of such Act (42
21 U.S.C. 1973gg–6) is amended—

22 (A) by redesignating subsection (j) as sub-
23 section (k); and

24 (B) by inserting after subsection (i) the
25 following new subsection:

1 “(j) REQUIREMENT FOR PROOF OF CITIZENSHIP IN
2 STATES WITHOUT REGISTRATION REQUIREMENT AND
3 STATES PERMITTING SAME-DAY REGISTRATION.—

4 “(1) STATES WITHOUT REGISTRATION RE-
5 QUIREMENT.—In the case of a State described in
6 section 4(b)(1), the appropriate State or local elec-
7 tion official may not provide any individual with a
8 ballot for an election for Federal office (including an
9 absentee ballot) unless the individual provides the of-
10 ficial with a photographic copy of any document
11 which provides proof that the individual is a citizen
12 of the United States, in accordance with guidelines
13 established by the Election Administration Commis-
14 sion in consultation with the Secretary of Homeland
15 Security and the Secretary of State.

16 “(2) STATES PERMITTING SAME-DAY REGISTRA-
17 TION.—In the case of a State described in section
18 4(b)(2), the appropriate State or local election offi-
19 cial may not permit any individual to register to vote
20 in an election for Federal office (including an indi-
21 vidual who desires to register to vote at the polling
22 place at the time of voting in the election) unless the
23 individual provides the official with a photographic
24 copy of any document which provides proof that the
25 individual is a citizen of the United States, in ac-

1 cordance with guidelines established by the Election
 2 Administration Commission in consultation with the
 3 Secretary of Homeland Security and the Secretary
 4 of State.”.

5 (2) CONFORMING AMENDMENT.—Section 4(h)
 6 of such Act (42 U.S.C. 1973gg–2(b)) is amended by
 7 striking “This Act” and inserting “Except as pro-
 8 vided in section 8(j), this Act”.

9 **SEC. 3. REQUIRING VOTERS TO PROVIDE PHOTO IDENTI-**
 10 **FICATION.**

11 (a) IN GENERAL.—Section 303(b) of the Help Amer-
 12 ica Vote Act of 2002 (42 U.S.C. 15483(b)) is amended—

13 (1) in the heading, by striking “FOR VOTERS
 14 WHO REGISTER BY MAIL” and inserting “FOR PRO-
 15 VIDING PHOTO IDENTIFICATION”; and

16 (2) by striking paragraphs (1) through (3) and
 17 inserting the following:

18 “(1) INDIVIDUALS VOTING IN PERSON.—Not-
 19 withstanding any other provision of law, the appro-
 20 priate State or local election official may not provide
 21 a ballot for an election for Federal office (including
 22 a provisional ballot under section 302(a)) to an indi-
 23 vidual who desires to vote in person unless the indi-
 24 vidual presents to the official a current and valid
 25 photo identification.

21 “(d) REQUIREMENT TO PROVIDE PHOTO IDENTI-
22 FICATION.—Subsection (b) shall apply with respect to the
23 regularly scheduled general election for Federal office held

1 in November 2006 and each succeeding election for Fed-
2 eral office.”.

3 **SEC. 4. EFFECTIVE DATE.**

4 This Act and the amendments made by this Act shall
5 apply with respect to the regularly scheduled general elec-
6 tion for Federal office held in November 2006 and each
7 succeeding election for Federal office.

○

The CHAIRMAN. The Chair now offers an amendment in the nature of a substitute and asks unanimous consent that it be considered as read. Without objection, so ordered.
[The information follows:]

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4844
OFFERED BY MR. EHLERS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Federal Election Integ-
3 rity Act of 2006” .

**4 SEC. 2. REQUIRING VOTERS TO PROVIDE PHOTO IDENTI-
5 FICATION.**

6 (a) REQUIREMENT TO PROVIDE PHOTO IDENTIFICA-
7 TION AS CONDITION OF RECEIVING BALLOT.—Section
8 303(b) of the Help America Vote Act of 2002 (42 U.S.C.
9 15483(b)) is amended—

10 (1) in the heading, by striking “FOR VOTERS
11 WHO REGISTER BY MAIL” and inserting “FOR PRO-
12 VIDING PHOTO IDENTIFICATION”; and

13 (2) by striking paragraphs (1) through (3) and
14 inserting the following:

15 “(1) INDIVIDUALS VOTING IN PERSON.—

16 “(A) REQUIREMENT TO PROVIDE IDENTI-
17 FICATION.—Notwithstanding any other provi-
18 sion of law and except as provided in subpara-

2

1 graph (B), the appropriate State or local elec-
2 tion official may not provide a ballot for an
3 election for Federal office to an individual who
4 desires to vote in person unless the individual
5 presents to the official—

6 “(i) a government-issued, current, and
7 valid photo identification; or

8 “(ii) in the case of the regularly
9 scheduled general election for Federal of-
10 fice held in November 2010 and each sub-
11 sequent election for Federal office, a gov-
12 ernment-issued, current, and valid photo
13 identification for which the individual was
14 required to provide proof of United States
15 citizenship as a condition for the issuance
16 of the identification.

17 “(B) AVAILABILITY OF PROVISIONAL BAL-
18 LOT.—If an individual does not present the
19 identification required under subparagraph (A),
20 the individual shall be permitted to cast a provi-
21 sional ballot with respect to the election under
22 section 302(a), except that the appropriate
23 State or local election official may not make a
24 determination under section 302(a)(4) that the
25 individual is eligible under State law to vote in

1 the election unless the individual presents the
2 identification required under subparagraph (A)
3 to the official not later than 48 hours after
4 casting the provisional ballot.

5 “(2) INDIVIDUALS VOTING OTHER THAN IN
6 PERSON.—

7 “(A) IN GENERAL.—Notwithstanding any
8 other provision of law and except as provided in
9 subparagraph (B), the appropriate State or
10 local election official may not accept any ballot
11 for an election for Federal office provided by an
12 individual who votes other than in person unless
13 the individual submits with the ballot—

14 “(i) a copy of a government-issued,
15 current, and valid photo identification; or

16 “(ii) in the case of the regularly
17 scheduled general election for Federal of-
18 fice held in November 2010 and each sub-
19 sequent election for Federal office, a copy
20 of a government-issued, current, and valid
21 photo identification for which the indi-
22 vidual was required to provide proof of
23 United States citizenship as a condition for
24 the issuance of the identification.

1 “(B) EXCEPTION FOR OVERSEAS MILITARY
2 VOTERS.—Subparagraph (A) does not apply
3 with respect to a ballot provided by an absent
4 uniformed services voter who, by reason of ac-
5 tive duty or service, is absent from the United
6 States on the date of the election involved. In
7 this subparagraph, the term ‘absent uniformed
8 services voter’ has the meaning given such term
9 in section 107(1) of the Uniformed and Over-
10 seas Citizens Absentee Voting Act (42 U.S.C.
11 1973ff—6(1)), other than an individual de-
12 scribed in section 107(1)(C) of such Act.

13 “(3) SPECIFIC REQUIREMENTS FOR IDENTI-
14 FICATIONS.—For purposes of paragraphs (1) and
15 (2)—

16 “(A) an identification is ‘government-
17 issued’ if it is issued by the Federal Govern-
18 ment or by the government of a State; and

19 “(B) an identification is one for which an
20 individual was required to provide proof of
21 United States citizenship as a condition for
22 issuance if the identification displays an official
23 marking or other indication that the individual
24 is a United States citizen.”.

1 (b) CONFORMING AMENDMENTS.—Section 303 of
2 such Act (42 U.S.C. 15483) is amended—

3 (1) in the heading, by striking “**FOR VOTERS**
4 **WHO REGISTER BY MAIL**” and inserting “**FOR**
5 **PROVIDING PHOTO IDENTIFICATION**”; and

6 (2) in subsection (c), by striking “subsections
7 (a)(5)(A)(i)(II) and (b)(3)(B)(i)(II)” and inserting
8 “subsection (a)(5)(A)(i)(II)”.

9 (c) CLERICAL AMENDMENT.—The table of contents
10 of such Act is amended by amending the item relating to
11 section 303 to read as follows:

“Sec. 303. Computerized statewide voter registration list requirements and requirements for providing photo identification”.

12 (d) EFFECTIVE DATE.—

13 (1) IN GENERAL.—This section and the amend-
14 ments made by this section shall apply with respect
15 to the regularly scheduled general election for Fed-
16 eral office held in November 2008 and each subse-
17 quent election for Federal office.

18 (2) CONFORMING AMENDMENT.—Section
19 303(d)(2) of such Act (42 U.S.C. 15483(d)(2)) is
20 amended to read as follows:

21 “(2) REQUIREMENT TO PROVIDE PHOTO IDEN-
22 TIFICATION.—Paragraphs (1) and (2) of subsection
23 (b) shall apply with respect to the regularly sched-
24 uled general election for Federal office held in No-

1 vember 2008 and each subsequent election for Fed-
2 eral office.”.

3 **SEC. 3. MAKING PHOTO IDENTIFICATIONS AVAILABLE.**

4 (a) REQUIRING STATES TO MAKE IDENTIFICATION
5 AVAILABLE.—Section 303(b) of the Help America Vote
6 Act of 2002 (42 U.S.C. 15483(b)), as amended by section
7 2(a)(2), is amended—

8 (1) by redesignating paragraphs (4) and (5) as
9 paragraphs (5) and (6); and

10 (2) by inserting after paragraph (3) the fol-
11 lowing new paragraph:

12 “(4) MAKING PHOTO IDENTIFICATIONS AVAIL-
13 ABLE.—

14 “(A) IN GENERAL.—During fiscal year
15 2008 and each succeeding fiscal year, each
16 State shall establish a program to provide photo
17 identifications which may be used to meet the
18 requirements of paragraphs (1) and (2) by indi-
19 viduals who desire to vote in elections held in
20 the State but who do not otherwise possess a
21 government-issued photo identification.

22 “(B) IDENTIFICATIONS PROVIDED AT NO
23 COST TO INDIGENT INDIVIDUALS.—If a State
24 charges an individual a fee for providing a

1 photo identification under the program estab-
2 lished under subparagraph (A)—

3 “(i) the fee charged may not exceed
4 the reasonable cost to the State of pro-
5 viding the identification to the individual;
6 and

7 “(ii) the State may not charge a fee
8 to any individual who provides an attesta-
9 tion that the individual is unable to afford
10 the fee.

11 “(C) IDENTIFICATIONS NOT TO BE USED
12 FOR OTHER PURPOSES.—Any photo identifica-
13 tion provided under the program established
14 under subparagraph (A) may not serve as a
15 government-issued photo identification for pur-
16 poses of any program or function of a State or
17 local government other than the administration
18 of elections.”.

19 (b) PAYMENTS TO STATES TO COVER COSTS.—Sub-
20 title D of title II of such Act (42 U.S.C. 15321 et seq.)
21 is amended by adding at the end the following new part:

1 **“PART 7—PAYMENTS TO COVER COSTS OF PRO-**
2 **VIDING PHOTO IDENTIFICATIONS TO INDI-**
3 **GEN INDIVIDUALS**

4 **“SEC. 297. PAYMENTS TO COVER COSTS TO STATES OF PRO-**
5 **VIDING PHOTO IDENTIFICATIONS FOR VOT-**
6 **ING TO INDIGENT INDIVIDUALS.**

7 “(a) PAYMENTS TO STATES.—The Commission shall
8 make payments to States to cover the costs incurred in
9 providing photo identifications under the program estab-
10 lished under section 303(b)(4) to individuals who are un-
11 able to afford the fee that would otherwise be charged
12 under the program.

13 “(b) AMOUNT OF PAYMENT.—The amount of the
14 payment made to a State under this part for any year
15 shall be equal to the amount of fees which would have
16 been collected by the State during the year under the pro-
17 gram established under section 303(b)(4) but for the ap-
18 plication of section 303(b)(4)(B)(ii), as determined on the
19 basis of information furnished to the Commission by the
20 State at such time and in such form as the Commission
21 may require.

22 **“SEC. 297A. AUTHORIZATION OF APPROPRIATIONS.**

23 “There are authorized to be appropriated for pay-
24 ments under this part such sums as may be necessary for
25 fiscal year 2008 and each succeeding fiscal year.”.

1 (c) CLERICAL AMENDMENT.—The table of contents
2 of such Act is amended by adding at the end of the item
3 relating to subtitle D of title II the following:

"PART 7—PAYMENTS TO COVER COSTS OF PROVIDING PHOTO
IDENTIFICATIONS TO INDIGENT INDIVIDUALS

"Sec. 297. Payments to cover costs to States of providing photo identifications
for voting to indigent individuals.

"Sec. 297A. Authorization of appropriations.".

4 (d) EFFECTIVE DATE.—This section and the amend-
5 ments made by this section shall take effect October 1,
6 2007.

Amend the title so as to read: "A bill to amend the Help America Vote Act of 2002 to require each individual who desires to vote in an election for Federal office to provide the appropriate election official with a government-issued photo identification, and for other purposes."

The CHAIRMAN. Is there any discussion on the Chairman's amendment in the nature of a substitute?

Ms. MILLENDER-MCDONALD. Mr. Chairman.

The CHAIRMAN. Yes. The Chair recognizes the gentlewoman from California.

Ms. MILLENDER-MCDONALD. Just a few questions on your amendment to—your substitute amendment to the bill. There were some questions that I wanted to raise. I have noticed that you are asking that each State establish a program to provide photo identifications. Are we suggesting that we impose an unfunded mandate here?

The CHAIRMAN. I would have to ask you to clarify that. We do provide that the federal government will reimburse any states that incur any expense in the process of providing a proof of citizenship and preparing a photo ID.

Ms. MILLENDER-MCDONALD. So are we reimbursing the States with the funding that is imposed through your authorization in the appropriation here on—it is line 23, part 7, you are asking for the authorization of appropriations.

Now, is this, again, Mr. Chairman, different from the appropriation that is already in place where there is an \$800 million shortage of funding already for the EAC? Or is this an additional appropriation request?

The CHAIRMAN. I am not aware of an \$800 million shortfall funding for the EAC. But in any event, this follows the same pattern as I mentioned earlier. States require photo identification for a number of functions, even buying cigarettes, and this continues in that same pattern, saying if you vote, you must provide a photo ID. Certainly the right to vote is far more important than the right to buy cigarettes. And I am not sure what unfunded mandate you could be referring to, other than one we have paid for in this bill, which is to aid citizens in establishing their citizenship and getting proof of citizenship.

I might also mention that the REAL ID Act, which has already passed into law, does provide many of the same—carries many of the same provisions.

Ms. MILLENDER-MCDONALD. I suppose what I was referring to in terms of the appropriation that was found in your section 297(a) was—I referred to the Title II funding grants, to States under HAVA, and that is the shortage that is still pending before the Congress.

The CHAIRMAN. Under HAVA, yes.

Ms. MILLENDER-MCDONALD. But this appropriation is in addition to that.

The CHAIRMAN. That is correct.

Ms. MILLENDER-MCDONALD. Okay. Thank you, Mr. Chairman.

Ms. MILLER. Mr. Chairman.

The CHAIRMAN. I am pleased to recognize the gentlewoman from Michigan, Ms. Miller.

Mrs. MILLER. Thank you, Mr. Chairman. I certainly appreciate your leadership on this issue. I think it is really an important issue. And, you know, so many places around our Nation have had experiences with fraudulent voting practices, and the Help America Vote Act, I think, went a long way to negating many of them.

But as you know, Mr. Chairman, we had a recent example in Michigan, actually in our last mayoral race in the city of Detroit, where the incumbent, Kwame Kilpatrick, and the challenger was Freeman Hendricks—and Freeman Hendricks called for, after the election, he called for a photo identification in very strong terms, and a number of people in the city of Detroit were calling for photo identification there.

It was interesting because, actually at that time the city of Detroit had 637,000 registered voters, but the unfortunate thing was the U.S. Census actually said that Detroit only had 630,000 people that were eligible to register to vote. So the new city clerk has done a number of things in the city of Detroit. But I point that out. I thought that was a very interesting experience that our State had gone through.

And also, in light of the fact that several years ago, actually John Engler was still the Governor at that time, I forget exactly what year, the State legislation passed a piece of legislation requiring photo identification in Michigan. It has been held up because of a previous Attorney General's opinion that said it was unconstitutional. But it is currently before our Michigan Supreme Court where all the expectations are a favorable ruling that the legislation is constitutional.

I think it is very, very important that we operate on any kind of election reform in the true spirit of bipartisanship. And I do believe that this piece of legislation meets those standards, particularly when you think of the fact that one of the—actually the Baker Commission on Federal Election Reform, which was obviously a very bipartisan group, did issue a recommendation as part of their findings that we should have. The Federal Government should pass and all States should have a photo identification, and that it be required in order for them to vote. It would be just a huge deterrent, I think, on voter fraud that, unfortunately, we do see in some instances still.

And I think, Mr. Chairman, I certainly want to tell you how much we appreciate your perfecting legislation here. I think your amendment has some very, very good improvements to the legislation, particularly ensuring, as was just debated here and discussed here, that any individual that could not afford an ID, either a driver's license or a State identification card, a voter registration card, what have you, that one be provided for them. I think this certainly negates any argument about the possibility of the concept of a poll tax or what have you.

And I also want to appreciate that you have taken full advantage, I think, in your mark here about the identification requirements that this Congress passed in regards to the REAL ID Act. And that, of course, has—is going to go a very long way to making sure that the breeder identification document that is utilized to be issuing driver's licenses, State identification cards, what have you, that the individual States are going to be able to be certain that those persons are who they say they are. And so I very much look forward to supporting your amendment and the amended version of this bill as well. Thank you.

The CHAIRMAN. Thank you for your comments. I recognize the gentlewoman from California.

Ms. LOFGREN. I just had a couple of quick questions for clarification. I think I know the answer, but I want to make sure. In your substitute, wouldn't it be true that the requirement for the photo ID would be imposed without regard to appropriations, but that reimbursement would be subject to the appropriations process?

The CHAIRMAN. I am not quite sure what you are getting at.

Ms. LOFGREN. Well what I am getting at is that we would be requiring States to implement the ID system. We are authorizing the payment, but we are not the Appropriations Committee. If the Appropriations Committee does not appropriate, the mandate would go forward without funding.

The CHAIRMAN. But normally the appropriators do follow up on authorizations.

Ms. LOFGREN. That has not been my experience.

The CHAIRMAN. On a situation like this, where—

Ms. LOFGREN. Reclaiming my time, on the affidavit opportunity that is present in HAVA, isn't it correct that in your amendment that the affidavit that allows an American citizen who does not have—cannot obtain documentation—to swear under penalty of perjury that they are a U.S. citizen and then proceed, would be repealed because those underlying documents would have to be provided within 48 hours?

The CHAIRMAN. Well, clearly the amendment, as the original bill, requires a proof of citizenship. This is not a new idea. It has been around a long time. There are states, especially, most recently, Arizona, which has passed this requirement. It has been implemented. It has to be reviewed in the courts, but so far the courts have ruled favorably on it.

What I would envision, if we don't do a bill like this, is we are going to have a huge hodgepodge across the nation, where every state will pass its own bill. They will not necessarily all be in agreement.

Ms. LOFGREN. Well, if I may, and I will have an amendment later, but—and I will reserve some further comments for then. But I would just note that the right to vote is protected in the Constitution. It is serious. We all agree that only American citizens have the right to vote. That is not in dispute.

The question is whether we are going to disenfranchise people. The right to buy cigarettes is not in the Constitution. The right to drive a car is not in the Constitution. The right to board an airplane is not in the Constitution. The right to vote is sacred and needs to be dealt with in a way this is separate. And I thank the gentleman for yielding for my question.

The CHAIRMAN. Any further comments?

I now recognize the gentleman from Pennsylvania, Mr. Brady.

Mr. BRADY. I just don't understand some things that happen. We are trying to have a voter turnout throughout the country and in my State of Pennsylvania, and I just can't help telling you that this has to hurt and add to voter apathy by making them go through another couple steps. Why I say a couple steps, when you are born in a hospital and you get a certificate from a doctor and you have your fingerprint and your heel print, that is not a birth certificate. You have to take that to an agency, a State agency, and then get a birth certificate. So that is another step.

First, you have to find that you were born, and then a lot of people that weren't born in hospitals have that problem getting that piece of paper. And in the State of Pennsylvania everybody—a lot of States are different. That then has to go to another agency and then they give you a certificate of birth. That doesn't have a photo ID on it.

And the problem I have is—there are a lot of problems that I have. And number one, if the election were tomorrow, I couldn't be allowed to vote. And I don't have a birth certificate and I don't have a passport. And I can't vote. I guess I have, to be able to vote for myself in November, well, it won't take effect. But if this bill took effect I have to go do that. Now I have got the wherewithal to do that, but I'm afraid that a whole lot of other people don't. And we are putting those people at hardship. And then again we are making it harder for people to vote. I like to make it easier for people to vote.

And the other thing I guess, I guess maybe it is the larceny that I have in me from time to time. Just because somebody shows proper ID of a person doesn't mean that that is that person. And I think that anybody that wants to vote and will vote and is going to vote that may not be a citizen, may not be registered but wants to vote for a person because they have the—whatever reason they want to vote for—and they are not the person they say they are, I don't think any kind of piece of paper can stop that. I don't think that that automatically says because I have a piece of paper saying that I am Joe Jones that I am Joe Jones. I think people do do things and can do things and a piece of paper doesn't necessarily stop fraud, stop voter fraud.

In the State of Pennsylvania we have a law. You have to have identification for the first time you vote. But you don't have to have it—we vote every 6 months—you don't have to have it every time you vote after that. You may have to have it again if you are voting in another polling place, for whatever reason, in case you move and you had to reregister. But you don't just show it every single time. And it does cause problems. It causes lines and it has—and it does turn people away.

And in this country, in the State of Pennsylvania, in the great city of Philadelphia where I am from, we like to try to allow people, make it easier to make them vote. And in my opinion this is making it harder.

Thank you Mr. Chairman.

The CHAIRMAN. I thank you. And I would simply observe, many states have different practices. And we have had children in California and Michigan. In both cases the birth certificate was sent to us without having to go and acquire it. I don't want to get into a lengthy argument about the comments that you have made, because I know we are going to have amendments and we will have to debate those as well. Are there any other? The gentlewoman from Michigan.

Mrs. MILLER. Thank you, Mr. Chairman. Just very briefly. I appreciated the gentleman from Pennsylvania's comments. I respectfully have a differing view of what this piece of legislation could actually do, because having been a former secretary of state and done everything that we possibly could to encourage voter registration,

in fact, in Michigan, we actually are the genesis of Motor Voter. It actually happened in the State of Michigan. And as a result of that, we had always in the 90 percentile, depending. Some years 89 percent, sometimes 93, 94 percent of every person in the State who was eligible to vote registered to vote. We were doing voter registration drives at every community college and every university and everywhere we could think about to make sure people were registered to vote.

And yet, for whatever reason, we never got any more participation in Michigan than what the national average was usually. So there are a number of reasons that people in the elections industry don't understand why people won't exercise that most important franchise, their right to vote. And we all want to encourage people to vote. I think one of the reasons that they perhaps won't vote, particularly younger people, is because they read these stories about voter fraud or what have you. And then they think that their vote won't count or they are not certain that we are ensuring the integrity of the system. And I do believe actually by passing this piece of legislation, we could encourage additional voter participation.

Thank you very much Mr. Chairman.

Ms. MILLENDER-MCDONALD. Mr. Chairman.

The CHAIRMAN. Yes. I recognize the ranking member.

Ms. MILLENDER-MCDONALD. Just kind of piggybacking on what the gentlewoman has said out of Michigan. When you have headlines like this, in yesterday's Washington Post, "Some Voters Left Exercising Only the Right to Vent." When you say why is it, you don't understand why a lot of folks do not vote. They come up against those issues, in the case yesterday in Maryland, ere there were many voters who went to vote and they were surrounded by this inoperable electronic voting machine; in addition to that, a dwindling supply of back up paper ballots.

And in addition to that, they had these cards, Mr. Chairman, that were presented to voters to vote, and they were supposed to vote with these cards, and yet those cards were not available at the time they came to vote.

So there are many people, many voters, who become very weary of those real issues that we are talking about, that are impeding voters from going to the polls and actually casting the vote, to vote. These are the issues that I am talking about that should be commanding our attention, and not anything that would be subjected to further voter disenfranchisement.

And, Mr. Chairman, I do have an amendment to the amendment in the nature of a substitute when you are ready for me.

The CHAIRMAN. If there is no more discussion? Are there other amendments?

Ms. LOFGREN. Mr. Chairman, on your amendment, if I could just briefly make a point that I neglected to make. And that is just on the whole overall issue of birth certificates. And I won't mention the name of the staff person, but it recently has come to my attention that a staff person who I know here on the Hill, he is a victim of ID theft. The perpetrator of the ID theft went to a southern State, obtained this guy's birth certificate with the stolen ID information, used that birth certificate to obtain a driver's license, and

this staffer found out when he started getting, you know, credit check information because he was buying things, because he is getting credit cards based on you know, the credit history he had established.

So having—there has been no evidence in any of the hearings I have seen that people are either sneaking into the country to vote or stealing ID to vote, but certainly there is no guarantee that a birth certificate means the person is who they are. So I just think it is important to put that in the context of the world we live in here today. And we all are aware of the ID theft problem, and I want to make that point in the discussion of the overall bill. And I thank the gentleman for recognizing me.

The CHAIRMAN. If there is no more discussion, are there any amendments to the Chairman's amendment in the nature of a substitute?

Ms. MILLENDER-MCDONALD. Mr. Chairman, I would like to offer an amendment to the amendment in the nature of a substitute.

Mr. MICA. Mr. Chairman, reserving the right to object.

The CHAIRMAN. The Chairman reserves the right to object. You may proceed to offer your amendment.

Ms. MILLENDER-MCDONALD. Thank you Mr. Chairman. Mr. Chairman, I offer my perfecting amendment to your amendment in the nature of a substitute to H.R. 4844. And what this amendment does, the amendment improves voter access to the polls, prevents election fraud and supports election integrity.

My amendment, the purpose of this amendment is, one, to establish uniform standards for the treatment of provisional ballots; number two, clarifies criminal penalties for voter fraud under the Help America Vote Act; and three, provides to the States additional fraud prevention methodology.

The purpose of section 2 is to ensure that every eligible provisional ballot in a Federal election is counted after election officials review the computerized statewide voter registration list to determine that the individual is eligible to vote either at the polling place at which the individual casts the vote or at any other polling place in the State.

Section 3. The purpose of this section is to criminalize the practice of falsifying information regarding an individual's eligibility to vote or misleading citizens as to the time, place, or manner of voting in a Federal election.

The purpose of section 4 of the amendment is to codify a Federal court decision that HAVA matching requirements are intended as an administrative safeguard, not as a restrictive provision on voter eligibility.

And the purpose of section 5 is to provide States an additional option to be used to prevent so-called voter fraud through the use of indelible ink or means to ensure voter identification. This method is cost effective simply because it will relieve our elderly disabled and minority voters of the excessively burdensome polling place identification requirements.

And that is my amendment to the amendment in the form of a substitute, Mr. Chairman.

The CHAIRMAN. I thank you for the amendment. Unfortunately, it is a lot of material to absorb in a few seconds here. But I would

say that I would certainly be interested in reviewing those, but I at the moment do not wish to have them incorporated into the amendment in the nature of a substitute without having an opportunity to study it in detail.

Are there other comments? And perhaps you would like to just——

Mr. MICA. Mr. Chairman, if there are no comments, I wanted the committee to have time to review whether the amendment was in order, and that can't be determined at this time. But I will withdraw my objection and call the question on the amendment.

The CHAIRMAN. The question is called. All those in favor of the amendment will vote aye. Those opposed will vote no.

Ms. MILLENDER-McDONALD. I ask for the yeas and nays, Mr. Chairman.

The CHAIRMAN. The yeas and nays are requested. The Clerk will call the roll.

The CLERK. Mr. Ney.

[No response.]

The CLERK. Mr. Mica.

Mr. MICA. No.

The CLERK. Mr. Doolittle.

Mr. DOOLITTLE. No.

The CLERK. Mr. Reynolds.

[No response.]

The CLERK. Ms. Miller.

Mrs. MILLER. No.

The CLERK. Ms. Millender-McDonald.

Ms. MILLENDER McDONALD. Yes.

The CLERK. Mr. Brady.

Mr. BRADY. Yes.

The CLERK. Ms. Lofgren.

Ms. LOFGREN. Yes.

The CLERK. Mr. Ehlers.

Mr. EHLERS. No.

The CHAIRMAN. The Clerk will give the tally.

The CLERK. Three ayes, four nays.

The CHAIRMAN. There being three ayes and four nays, the amendment fails. Are there any further amendments?

Ms. LOFGREN. I have an amendment.

The CHAIRMAN. I recognize the gentlewoman from California.

Mr. MICA. Reserving the right to object, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida reserves the right to object.

Ms. LOFGREN. Mr. Chairman, this amendment would do an important thing. It would provide that the Chairman's measure would not take effect until the Election Assistance Commission did two things: conducts a study on the anticipated impact of the amendment on voter participation, and that would not be a problem because the Chairman's implementation date has been extended, and clearly the Commission could finish a study in the time frame available; and secondly, and probably most importantly, submits a report to Congress on the study which concludes that the implementation of the amendment will not disproportionately affect

voter participation by the elderly, the disabled and members of racial minorities.

Now, I believe that this is an essential amendment for a couple of reasons. I did, along with other members of the committee, have a chance to participate in the hearing in this room last June. That was very helpful. I also had a chance to go to the hearing in Las Cruces, New Mexico. I will say this: that there was very thin or no evidence of substantial voter fraud issues. There was very substantial evidence of the disparate adverse impact that a voter ID requirement would have on the elderly and on ethnic minorities. I believe that to ask the Commission to review this and to report to us as a trigger is essential, because if the impact of this legislation would be to disenfranchise disproportionately minority voters, not only would that be morally wrong, but I believe it was unconstitutional.

I want to talk a little bit about some of the things that we learned in these two hearings. I was not able to go to the Arizona hearing. As you will recall in June, we reviewed a study in one of our northern States that found out that half of the African American and Latino men did not have a photo ID in Milwaukee; that 97 percent of the students in Milwaukee had valid IDs, but their current addresses didn't match their IDs because they were students; and that those people would likely be barred from voting, even though they are Americans.

We also heard testimony that I thought was compelling in Las Cruces, from the head of the American Immigration Lawyers Association, that she had never in all of her experience come across a situation where illegal aliens had snuck across the border to vote. The illegal aliens are sneaking across the border for a job, not to vote. And so this is really a remedy for a problem that is minimal, if it exists at all.

I want to talk also about some of the most compelling testimony, I thought, I heard in Los Angeles, and that was from Mr. Yazi, representing the Navajo nation. As we know, the Navajos, along with other Native Americans, are the original Americans. They are brave, patriotic Americans. The Navajos, in particular, were the code talkers that we honored here several years ago for helping the United States to prevail in World War II.

What Mr. Yazi told us there in New Mexico was that most of the Navajos don't have a photo ID. And not only that, they can't get a photo ID because they weren't born in a hospital, they were born at home; they don't have a State record of their birth. He said they can't show proof of residence with an electric bill, because they don't have any electricity; and they can't show proof of residence with a phone bill, because they don't have any phones.

He further added, Some of us think that if you take our picture, it steals our soul.

Now, no one doubts that the Navajos are Americans. But if this bill were to pass, without the assurance of the Election Commission that there was no disparate account, we would disenfranchise a couple of—100,000 at least members of the Navajo nation. That would be morally wrong, and it would also be unconstitutional.

I want to note, as I said earlier, there is no disagreement, I think, on any member of this committee that only Americans can

vote. That is not the argument. The argument is, in our efforts to make sure that that is the case, whether we are deterring Americans from voting, I will say that there is an effort underway around the United States spearheaded by the Republican Party, to institute these voter ID requirements. And it looks to me that it is an effort to suppress the votes by African Americans and Native Americans in particular.

The chairman said that 81 percent of voters said they favored a voter ID measure. I haven't seen the poll. I am not going to argue about the figures. But if 81 percent of the voters said we are going to disenfranchise the Navajos, we are not going to let those Americans vote, we wouldn't listen to that. That is why we need to have the Federal Elections Commission do a review of this and not to disenfranchise African American voters and native American voters all across this country.

I noted earlier, and I think it is worth mentioning again, that a lot of us have—I have a passport. I have a voter ID. But I am not so elitist as to believe that my privileged position is the position that every other American has.

My father didn't board an airplane until I was—his first airplane ride was to come watch me be sworn into Congress.

Most Americans don't have a passport. Especially many poor people do not have birth certificates. But they are still Americans, whether they are poor or not. And I strongly object to any effort that would disenfranchise Americans because they are poor, because they are black, because they are Native Americans. And that is why we must insist that if this were to pass, it could only be implemented with an assurance by the Elections Commission it does not disadvantage those Americans. And I thank the gentleman for yielding for this amendment.

Mr. DOOLITTLE. Mr. Chairman.

The CHAIRMAN. I yield myself five minutes to respond. And I would say first of all, one thing that has always delighted me about America and Americans is the incredible can do spirit that Americans have. When presented with a problem or a difficulty, the first question is, "how do we resolve this? How do we solve it?" And I am just dismayed at the attitude that if we pass this bill, suddenly there is a huge problem that we can't solve. I think it is terrible if people are not voting now. I would want every possible way to assist them to vote. I would not support any bill that would lead to disenfranchisement of people. But if there are those who don't have proof of citizenship, I think we should help them get it.

How are they going to collect Medicare Part D benefits if they can't prove citizenship? How are they going to get some of the other benefits that are reserved for citizens if they don't have proof of citizenship? I think it is our responsibility to help everyone get proof of citizenship. And this bill provides a means of doing that, in addition to assuring the sanctity of the vote. So I think this is a fallacious argument.

Now, in terms of the amendment that the gentlewoman has offered, I would be very willing to commission a study to evaluate, after we implement the legislation, whether or not the dire things that she has forecast would take place. But asking for the study beforehand, first of all, the result would be quite uncertain because

you would only be asking if this happens, what would you think, rather than it has happened, now what do you think? I think it would needlessly delay what we are trying to do and certainly would not give the valid information you would get after the bill has passed and has been implemented.

I yield back the time. Does anyone seek recognition? The gentleman from California, Mr. Doolittle.

Mr. DOOLITTLE. Well, I do believe this is a serious issue. I think we know firsthand from an incident in California that it was serious. In fact, this committee has spent a considerable amount of time investigating. The task force of the committee—I think Mr. Mica was involved in that, as was Mr. Ehlers—found a clear and convincing evidence that 748 invalid votes were cast in that election.

Now, the election was only decided by a margin of 979 votes. And State officials further found that over 300 noncitizens illegally voted in that contest. Three hundred, in an election that was decided by less than 1,000 votes. So we know we have close elections from time to time. They are not all that rare. And I just can't be silent in the representations that voter fraud is not a problem. Voter fraud is a problem. Security is a problem. And I just, for the life of me, can't understand in this day and age why it is a problem to require photo ID to vote. That, to me, is an essential and is long overdue. And if it is an inconvenience for some people, I am sorry. We will try and make the burden as easy as possible, but we are in the age that we are in and we face the challenges we face. And I, for one, think it is completely ridiculous that we aren't requiring the photo ID. And I support it and would like to see the legislation move.

Ms. MILLENDER-MCDONALD. Would the gentleman yield?

The CHAIRMAN. The Chair recognizes the ranking member.

Ms. MILLENDER-MCDONALD. Thank you, Mr. Chairman.

Ms. MILLENDER-MCDONALD. The gentleman from California has stated that he is, and so am I, adamantly opposed to voter fraud. He speaks of 728 invalid ballots at one place of voting, 300 non-eligible ballots at another place.

Mr. DOOLITTLE. Will you yield for a minute? That wasn't a place of voting. That was the total votes cast in the Dornan-Sanchez race, congressional race, in 1976. The total margin of victory by Sanchez over him was 979 votes.

Ms. MILLENDER-MCDONALD. Thank you so much for your clarification, but what I am getting at is when you talk about over 280 million folks in this country, and you speak about 748 or 300, that is so minimal when we are talking about suppression of a majority of the people. Like in the State of Georgia, my dear friend, an estimated 40 percent of seniors lack identification for voting in the State of Georgia. And even our State Department has suggested that there are only 23 percent of persons who have passports, if passport will be the number one identifying factor of the photo identification.

We must not put laws in place that are going to suppress the majority of Americans from voting and having a right to vote, and I am afraid this bill does just that.

And, Mr. Chairman, I support the study that was made by the gentlelady of California in her amendment because we need to have a study to discern whether or not legislation that we are putting on the books will adversely affect an already apathetic number of persons who are not voting. They are not going to the voting box, they are not casting their ballots, and we continue to put these types of onerous pieces of legislation before them that will continue to erode the very democracy that we fight for in this Congress.

Mr. Chairman, I have many, many letters that I would like to submit to the record, one that I have just received hot off the press from members of the Congressional Hispanic Caucus opposing H.R. 4844, and I would like to read those others, if you will allow me time. I have many more, too, and I would like to put on the record—

The CHAIRMAN. Without objection, we will enter those into the record.

Ms. MILLENDER-MCDONALD. But I would like to have some of those organizations identified, Mr. Chairman. So if I can yield to the gentlelady with your permission.

Ms. LOFGREN. Read the letters.

Ms. MILLENDER-MCDONALD. Mr. Chairman, may I?

The CHAIRMAN. You may proceed.

Ms. MILLENDER-MCDONALD. Thank you. We have received letters of opposition from the Asian American Justice Center, the Hispanic National Bar Association, the League of Latin American Citizens, the Mexican American Legal Defense and Education Fund, the National Association of Latino Elected and Appointed Officials Education Fund, the National Council of La Raza, Southwest Voting Registration Education Project, William S. Velasquez Institute, the National Urban League, the NAACP Washington Bureau, the People for the American Way, the Protection and Advocacy, Inc., the League of Women Voters, the Liberty Coalition, the American Policy Center, the Fairfax County Privacy Council, the Republican Liberty Caucus, the Rutherford Institute, the Concerned Foreign Service Officers, Common Cause, Velvet Revolution, Cyber Privacy Project, SCIU, and the last ones are the Lawyers Committee for Civil Rights under the Law. And again, the Democratic Women's Working Group.

Thank you, Mr. Chairman.

The CHAIRMAN. All of these will be entered into the record without objection. So ordered.

I now recognize the gentleman from Pennsylvania.

Mr. BRADY. I would like to yield my time to the gentlelady from California.

Ms. LOFGREN. Thank you for yielding, Mr. Brady.

I just want to make a couple of comments because I think it is important to put into context what we are doing here today. There are a lot of unsubstantiated comments that are made about fraud and the like. Everybody is against fraud. That is not the question.

Reference was made to the Dornan-Sanchez race, and I would just note that an investigation was made, and Ms. Sanchez was elected, was—is certified. So, you know, I don't want to go back to that fight because I was a member of the committee, but a thorough job was done, and the election was certified.

The issue here is that there will be people, U.S. citizens, true blue Americans, who are going to be disenfranchised if this amendment were to become law. I will just mention an example. Recently, I think it was a mistake, and obviously the administration agreed later, a proof of citizenship requirement was put into place for Medicaid recipients, and many of us said this is not going to work. There are a lot of very old people who don't have birth certificates. They were born at home. They don't have driver's licenses because they don't drive. They are in nursing homes, and this is going to be a problem.

Sure enough, all over the United States we came up with State health officials saying, we are going to have to throw little old ladies with Alzheimer's out of their nursing home beds because they don't have a photo ID. We are going to have throw people who are on kidney dialysis out of, you know—now, true, the Alzheimer victims are probably not going to vote anyhow because they are not *compos mentis*, but there are plenty of physically disabled people who are elderly who can not meet the requirement.

It was such a problem that the Bush administration had to back off and say we are not going to require that anymore because people would die. That same proof is in this bill, and it seems to me that if you can't prove your ID to save your life, you are not going to be able to prove your ID to vote either.

And the Constitution protects your right to vote if you are a U.S. citizen. Being a U.S. citizen is not dependent on being born in a hospital. It is not dependent on having a piece of paper. It is not dependent on being rich enough to have a passport. And so that is the reason why the American Association of Retired Persons, hardly a left-wing group, has come out against this whole concept. It is why the League of Women Voters, certainly a pristine do-gooder group that is completely nonpartisan, has come out against this piece of legislation.

And I just have got to say, and this is not personal about any members of the committee, but the Republican Party all over the United States is pursuing this effort for one reason only: A lot of ethnic minorities have woken up to the fact that the Republican Party is not on their side. And that is why African American voters are being suppressed in vast areas of the United States, let us face it. Although it is not a requirement, you can do the statistical analysis and find out that the Navajo Nation votes Democratic more than it votes Republican, and to think that it is an accident that this measure would disenfranchise the Navajos, that this measure would disproportionately mean that African American voters will not be able to cast their votes even though they are U.S. citizens, is to be naive, to be foolish.

It is a felony now to vote if you are not a U.S. citizen. If we wanted to do something to reduce any problem about voting when you are not eligible, we should enlist the Ad Council to put on the air it is a felony to vote if you are not a U.S. citizen. That was one of the suggestions made at the Las Cruces hearing. I would go along with that, but I am not going to go along with disenfranchising elderly, poor, African American and Native Americans from their privilege, their honor, their basic right to control their government through exercising their right to vote.

And I yield back to the gentleman Mr. Brady and thank you for yielding.

The CHAIRMAN. The gentlelady yields back.

Mr. Doolittle is recognized.

Ms. LOFGREN. Hasn't Mr. Doolittle been recognized already?

Mr. DOOLITTLE. Is there a rule—

Mr. MICA. May I be recognized?

The CHAIRMAN. The Chair recognizes Mr. Mica for 5 minutes.

Mr. MICA. I yield.

Mr. DOOLITTLE. Mr. Chairman, it is outrageous to hear my colleague sit there and assert the Republican Party is embarking on a move to suppress the vote of ethnic minorities throughout the country. That is blatantly false, and I am not going to sit here by my silence and give any credence to that assertion. That is ridiculous.

Ms. MILLENDER-MCDONALD. Who is presenting the legislation?

Mr. DOOLITTLE. Let me tell you something. When we have fraud, it diminishes all of our right to vote, including ethnic minorities, if there is fraud in an election. So we have every right to be concerned about fraud, and the instances I am aware of—and anecdotally, in urban situations where people have voted multiple times which have been documented, it is on the Democrat side, not the Republican. But I will admit that sin spreads across both parties in terms of individual actions.

But I just—when we are considering legislation to require a photo ID, and we hear inflammatory statements made that the Republican Party is out to suppress the votes of racial minorities, ethnic minorities, no, that is not true. I will not sit here and accept that, and you have no proof of that.

Mr. MICA. Reclaiming my time as a sinner here, I want to just say that this really isn't a partisan issue or recommendation. The bipartisan Carter-Baker Commission, former President Carter, Democrat, Secretary of State Baker, both very distinguished, honorable Americans, and I believe there are 21 on the Commission, all but three voted for requiring of voter IDs. So I think it is pretty unanimous. And the Chairman has also indicated that the American people by a large majority, I don't—we shouldn't legislate on the basis of polls, but I think all you have to do is go out in public today, and they are saying, secure our borders, and they also say, secure our ballots, and that is what that is about.

Ms. MILLENDER-MCDONALD. Will the gentleman yield for a second or so?

Mr. MICA. Possibly exposing myself for minor abuse, I will yield.

Ms. MILLENDER-MCDONALD. I am sorry?

Mr. MICA. I said possibly exposing myself to minor abuse, because I respect her so much.

Ms. MILLENDER-MCDONALD. Only to say that while you cite the task force of the Carter-Baker, there was resounding dissent brought to bear on that particular issue. So it was not a unanimous vote with that.

Mr. MICA. As I understand, there were 3 dissenting votes on the issue out of 21. I may be incorrect but that is my—the information I was given. Not exactly resounding.

I yield back. Thank you.

The CHAIRMAN. All time has expired. The question before us is on the amendment to the amendment in the nature of the substitute offered by Ms. Millender-McDonald of California.

Ms. MILLENDER-MCDONALD. Well, really it was——

The CHAIRMAN. Pardon?

Ms. LOFGREN. Ms. Millender-McDonald's. No.

Ms. MILLENDER-MCDONALD. It was my amendment that she introduced, so the name should be Ms. Lofgren. Thank you.

The CHAIRMAN. Okay. All those in favor of this particular amendment will say aye. Aye.

Those opposed will say no. No.

The ayes have it.

Ms. LOFGREN. I would like a rollcall vote, please.

The CHAIRMAN. A request for rollcall has been made. The clerk will call the roll.

The CLERK. MR. NEY.

[No response.]

The CLERK. MR. MICA.

Mr. MICA. No.

The CLERK. MR. DOOLITTLE.

Mr. DOOLITTLE. No.

The CLERK. MR. REYNOLDS.

[No response.]

The CLERK. MRS. MILLER.

Mrs. MILLER. No.

The CLERK. MS. MILLENDER-MCDONALD.

Ms. MILLER-MCDONALD. Yes.

The CLERK. MR. BRADY.

Mr. BRADY. Yes.

The CLERK. MS. LOFGREN.

Mr. LOFGREN. Yes.

The CLERK. MR. EHLERS.

The CHAIRMAN. No.

The clerk will read the tally.

The CLERK. Three ayes, four noes.

The CHAIRMAN. The amendment fails.

Are there any further amendments?

Hearing none, we will recognize Mr. Mica for the purpose of offering a motion.

Mr. MICA. Mr. Chairman, I move that H.R.——

Ms. MILLENDER-MCDONALD. Point of order, Mr. Chairman.

The CHAIRMAN. Pardon me. Back up just one minute. There is one amendment we do have to pass first. The question is on the Chairman's amendment in the nature of a substitute. Those in favor will say aye. Aye.

Those opposed will say no. No.

It is the opinion of the Chair, the amendment in the nature of a substitute is agreed to.

Ms. MILLENDER-MCDONALD. Mr. Chairman, I ask for the yeas and nays on that.

The CHAIRMAN. There is a request for the yeas and nays. The clerk will read the roll.

The CLERK. MR. NEY.

[No response.]

The CLERK. MR. MICA.

Mr. MICA. Aye.

The CLERK. MR. DOOLITTLE.

Mr. DOOLITTLE. Aye.

The CLERK. MR. REYNOLDS.

[No response.]

The CLERK. MRS. MILLER.

Mrs. MILLER. Aye.

The CLERK. MS. MILLENDER-McDONALD.

Ms. MILLENDER-McDONALD. No.

The CLERK. MR. BRADY.

Mr. BRADY. No.

The CLERK. MS. LOFGREN.

Ms. LOFGREN. No.

The CLERK. MR. EHLERS.

The CHAIRMAN. Aye.

The clerk will read the tally.

The CLERK. Four ayes, three noes.

The CHAIRMAN. The motion carries, and the gentleman's amendment in the nature of a substitute is accepted.

At this point we will once again recognize Mr. Mica for a motion.

Mr. MICA. Okay. Okay. Now I will try that. Mr. Chairman, I move that H.R. 4844, as amended, be reported favorably to the House.

The CHAIRMAN. The question is on the motion. Those in favor will say aye. Aye.

Those opposed will say no. No.

Ms. MILLENDER-McDONALD. Mr. Chairman, I ask for the yeas and nays.

The CHAIRMAN. The yeas and nays will be read.

The CLERK. MR. NEY.

[No response.]

The CLERK. MR. MICA.

Mr. MICA. Aye.

The CLERK. MR. DOOLITTLE.

Mr. DOOLITTLE. Aye.

The CLERK. MR. REYNOLDS.

[No response.]

The CLERK. MRS. MILLER.

Mrs. MILLER. Aye.

The CLERK. MS. MILLENDER-McDONALD.

Ms. MILLER-McDONALD. No.

The CLERK. MR. BRADY.

Mr. BRADY. No.

The CLERK. MS. LOFGREN.

Ms. LOFGREN. No.

The CLERK. MR. EHLERS.

The CHAIRMAN. Aye.

The motion is agreed to and H.R. 4844 is recorded favorably to the House. The tally was four ayes, three nays.

Pursuant to House Rule 10, all Members will have two calendar days for the purpose of filing views.

I ask unanimous consent that Members have seven calendar days for statements and materials to be entered into the appro-

priate place in the record. Without objection, the material will be so entered.

I ask unanimous consent that staff be authorized to make technical and conforming changes on all matters considered by the committee at today's markup. Without objection, so ordered.

We are pleased to know that we have reported this to the floor, and I am sure we will continue to have very interesting and thorough discussion of this issue on the floor of the House of Representatives.

Having completed our business for today, the committee is hereby adjourned.

[Whereupon, at 12:15 p.m., the committee was adjourned.]

